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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/772,966	02/05/2004	Audley Logan SR.	7079.2-1	5191
23559	7590	09/28/2004	EXAMINER	
MUNSCH, HARDT, KOPF & HARR, P.C. INTELLECTUAL PROPERTY DOCKET CLERK 1445 ROSS AVENUE, SUITE 4000 DALLAS, TX 75202-2790			SPISICH, MARK	
		ART UNIT	PAPER NUMBER	
		1744		

DATE MAILED: 09/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/772,966	LOGAN, AUDLEY
	Examiner Mark Spisich	Art Unit 1744

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on ____.
 2a) This action is FINAL. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-24 is/are pending in the application.
 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
 5) Claim(s) ____ is/are allowed.
 6) Claim(s) 1-23 is/are rejected.
 7) Claim(s) 24 is/are objected to.
 8) Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on ____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. ____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. ____.
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>3/2004</u> .	6) <input type="checkbox"/> Other: ____.

DETAILED ACTION

Comment re Claims 8 and 12

Applicant should note that claims 8 and 12 are currently identical.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

- (a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.
- (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
- (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-6,9,13-16,18,20 and 23 are rejected under 35 U.S.C. 102(e) as being anticipated by Silvers et al (USP 6,763,5454). The patent to Silvers discloses a cleaning tool comprising a C-shaped scrubber head (14) comprising an upper arm (18), lower arm (16) and connecting member (20) as well as a scrubbing material (34) secured to the inner surface of the head. The arms need not be parallel (column 4, line 36) and the scrubbing material may be sponge (column 5, line 30). With regard to claim 14, recitations of intended use, absent the recitation of a structural distinction, fail to distinguish over a prior art device meeting all of the structure of the claimed device.

3. Claims 1,3,6,11,13-15,18,22 and 23 are rejected under 35 U.S.C. 102(b) as being anticipated by Lytton et al (USP 5,116,151). The patent to Lytton discloses a

cleaning tool comprising a generally C-shaped cleaning head comprising an upper arm (16), lower arm (18) and connecting member (17) as well as a scrubbing material (20) secured to an inner surface of the head.

4. Claims 1-5,8 and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Ferrante et al (USP Des 403,165). The patent to ferrante discloses a cleaning tool comprising a generally C-shaped head comprising an upper arm, lower arm (having bristles extending from a free end thereof) and a connecting member.

5. Claims 1,2,5 and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Thunderchild (USP Des 433,819). The patent to Thunderchild discloses a tool comprising a head with an upper arm, lower (shorter arm) and connecting member as well as an elongated handle and further including bristles secured to an inner surface of the head.

6. Claims 1,4 and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by Polzon (USP 1,700,209). The patent to Polzon discloses a cleaning tool comprising a head including an upper arm (14), lower arm (17), connecting member (16) and scrubbing material (20).

7. Claims 1,6,13,14 and 18 are rejected under 35 U.S.C. 102(a) as being anticipated by JP 2003-164392. '392 discloses a toilet cleaning tool comprising a head (1) comprising an upper arm, lower arm and connecting member as well as a removable cleaning sheet (3) attachable to an inner surface of the head (1) with the head further including a handle (2).

8. Claims 1,3,4,6,10,13-16,18 and 21 are rejected under 35 U.S.C. 102(b) as being anticipated by Seddon (USP 4,846,599). The patent to Seddon discloses a cleaning tool comprising a generally C-shaped head (14), comprising legs (15a,15b) and a connecting member (15c) as well as a scrubbing material (26).

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 10 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Silvers et al (USP 6,763,545). The patent to Silvers discloses the invention substantially as claimed with the exception of the scrubbing pad, although it does disclose a variety of diverse cleaning materials (see column 5, lines 21-35). Given this suggestion in Silvers, it would have been obvious to one of ordinary skill to have used a scrubbing pad, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

11. Claims 7 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Seddon (USP 4,846,599) in view of DE 2,645,188. The patent to Seddon discloses the invention substantially as claimed with the exception of the manner of securing the pad. '188 discloses a toilet cleaner with a readily detachable cleaning pad (12) which is removable by means of a plurality of hooks (22). It would have been obvious to one of

ordinary skill to have modified the device of Seddon as such to provide for a readily removable pad when it becomes soiled. With regard to the term "hook and loop", one of ordinary skill would recognize that the means of '188 is at least functionally equivalent to the function thereof and that one would recognize that any known means of the same type could be used.

12. Claims 13-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ferrante et al (USP Des 403,165) in view of DE 2,645,188. The patent to Ferrante discloses the invention substantially as claimed with the exception of the scrubbing material being releasably secured to the head. '188 discloses the use of a hook means (22) for releasably securing a pad to the head of a toilet cleaning tool. It would have been obvious to one of ordinary skill to have modified the device of Ferrante as such so that the pad could be replaced when soiled. The use of a sponge or a scrubbing pad for the pad portion of Ferrante would be obvious to one of ordinary skill.

Allowable Subject Matter

13. Claim 24 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patent to Henn is pertinent to a C-shaped cleaning tool and Derwent '026 to an L-shaped toilet cleaner.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark Spisich whose telephone number is (571) 272-1278. The examiner can normally be reached on M-Th (5:30-3:00), Alternate Fri off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert J Warden can be reached on (571) 272-1281. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Mark Spisich
Primary Examiner
Art Unit 1744

MS